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Anthony Warren*

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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHN MELNIK,

Plaintiff,

vs.

JAMES DZURENDA, et al.,

Defendants.

Case No. 3:16-cv-00670-MMD-CBC

**MOTION FOR ENLARGEMENT OF TIME
FOR DEFENDANTS BARTH AND
DZURENDA TO RESPOND TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

Defendants, Stacy Barret, Jay Barth, James Dzurenda, Dwight Neven, Jason Satterly and Anthony Warren, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Erin L. Albright, Deputy Attorney General, hereby move this Court to enlarge the time for Defendants Barth and Dzurenda to respond to Plaintiff's First Set of Interrogatories to April 25, 2019.

This Motion is based on the following Memorandum of Points and Authorities and the papers and pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT FACTS

On February 28, 2019, Plaintiff served Defendant Dzurenda with a First Set of Interrogatories.

On March 3, 2019, Plaintiff served Defendant Barth with a First Set of Interrogatories.

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1 Some of the interrogatories posed to both Defendants require the Defendants to review
2 documentation to refresh their memories. Defendants have requested the information necessary to
3 respond to Plaintiff's interrogatories from the Nevada Department of Corrections (NDOC) and have
4 yet to receive it.

5 **II. ARGUMENT**

6 Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

7 When an act may or must be done within a specified time, the court may,
8 for good cause, extend the time: (A) with or without motion or notice if
9 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

10 The proper procedure, when additional time for any purpose is needed, is to present a request
11 for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31
12 F.R.D. 282 (W.D.Pa. 1962). Extensions of time may always be asked for, and usually are granted on a
13 showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8
14 F.R.D. 268 (N.D. Ohio 1947).

15 The time for both Defendant Barth and Defendant Dzurenda to respond to Plaintiff's First Set of
16 Interrogatories has not expired. Defendants seek a second enlargement of time for both Defendant
17 Barth and Defendant Dzurenda to respond to Plaintiff's First Set of Interrogatories because they have
18 not received the necessary documentation to respond to Plaintiff's interrogatories. If the Defendants
19 answer the interrogatories without reviewing the documentation requested from the NDOC, their
20 answers will be incomplete. Therefore, Defendants respectfully request that the deadline for Defendant
21 Barth and Defendant Dzurenda to respond to Plaintiff's First Set of Interrogatories be enlarged to April
22 25, 2019. This extension is not made for the purposes of delay or to prejudice Plaintiff.

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1 **III. CONCLUSION**

2 Based on the foregoing, Defendants respectfully request that the time for Defendants Barth and
3 Dzurenda to respond to Plaintiff's First Set of Interrogatories be enlarged to April 25, 2019.

4 DATED this 27th day of March, 2019.

5 AARON D. FORD
6 Attorney General

7 By:


8 ERIN E. ALBRIGHT
9 Deputy Attorney General
10 State of Nevada
11 Bureau of Litigation
12 Public Safety Division

Attorneys for Defendant

13 **IT IS SO ORDERED**

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15 U.S. MAGISTRATE JUDGE

16 DATED: 3/28/2019
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